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Honorable Earlene McDaniel
Presiding Officer
Town of Nauvoo
P. O. Box 186
Nauvoo, AL 35578

Municipalities - Police
Jurisdiction - Licenses -
Taxation

If the Town of Nauvoo levies and collects licenses, and sales and use taxes in its police jurisdiction, it must provide for the protection of the lives, health and property of the residents and businesses in the police jurisdiction. What services are required to provide such protection is a determination to be made by town officials.

Dear Ms. McDaniel:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Can the Town of Nauvoo collect tax such as sales tax, etc., from the businesses that are out of the city limits, but in the police jurisdiction, if the town does not provide these businesses police protection?

FACTS, LAW AND ANALYSIS

Code of Alabama 1975, § 11-51-91 provides, regarding the ability of a municipality to collect licenses in its police jurisdiction:

"Any city or town within the state of Alabama may fix and collect licenses for any business, trade or profession done within the police jurisdiction of such city or town but outside the corporate limits thereof; provided, that the amount of such licenses shall not be more than one half the amount charged and collected as a license for like business, trade or profession done within the corporate limits of such city or town, fees and penalties excluded; and provided further, that the total amount of such licenses shall not be in an amount greater than the cost of services provided by the city or town within the police jurisdiction; and provided further, no calculation is required to be made by the municipal officials for the cost of services to any particular business or classification of businesses within the police jurisdiction so long as the total amount of such licenses collected in the police jurisdiction shall not be in an amount greater than the cost of services provided by the city or town to the police jurisdiction This section shall be given a liberal construction to effectuate its purpose and meaning."

Code, § 11-51-206 concerns the levy of sales and use taxes by a municipality outside its corporate limits. It states:

"The council or other governing body shall have the authority to levy and assess by ordinance within the police jurisdiction of any said city or town all taxes authorized by this article; provided, that said levy and assessment shall not exceed one-half the amount levied and assessed for like businesses,

sales or uses conducted within the corporate limits, fees and penalties excluded."

The standards applied to the collection of revenue and the providing of services by a municipality in its police jurisdiction was set out by the Alabama Supreme Court in Department of Revenue v. Reynolds Metals Company, 541 So.2d 524 (Ala. 1988):

"A municipality must estimate the amount reasonably necessary to provide for the protection of the lives, health, and property of businesses and residents, and for the maintenance of good order and the preservation of public morals within its entire police jurisdiction. The municipality may then, by a properly adopted ordinance or resolution, set a license fee for businesses within its police jurisdiction, but outside its city limits, so that the total receipts from all such licenses do not exceed the amounts estimated to be reasonably necessary to provide these services to the police jurisdiction. No license fee charged to any business within the police jurisdiction, but outside the city limits, shall be more than one-half of the license fee charged to a similar business within the city limits. . . ."

Using this standard, if the Town of Nauvoo collects taxes such as sales and use taxes and licenses, in its police jurisdiction, the town must provide for the protection of the lives, health and property of the businesses and residents, and for the maintenance of good order and preservation of morals in that area. What services are required by the Town of Nauvoo to provide for the protection of the residents and businesses and their property in the police jurisdiction is a determination to be made by the town officials.

It should be remembered that under § 11-51-91 and § 11-51-206, the amount of sales and use tax and licenses can be no more than one-half that which is levied and assessed in the corporate limits of the town. Furthermore, it is not necessary that the taxes levied and collected upon the particular businesses within the police jurisdiction be related by the city to the costs of city supervision and

services rendered to those particular businesses. State Department of Revenue and Reynolds Metals Company, supra.

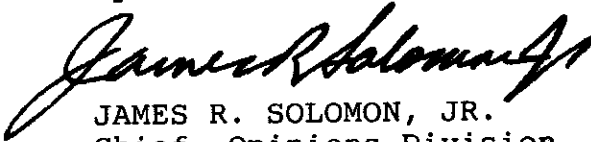
CONCLUSION

If the Town of Nauvoo levies and collects licenses, and sales and use taxes in its police jurisdiction, it must provide for the protection of the lives, health and property of the residents and businesses in the police jurisdiction. What services are required to provide such protection is a determination to be made by town officials.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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